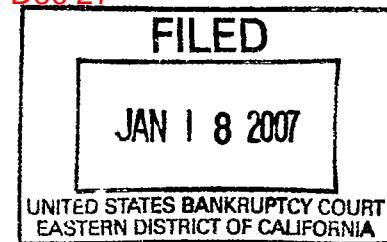


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TJ

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re) Case No. 06-23014-C-7
)
KURTIS SWART and) MC No. KEH-1
HOLLIE SWART)
)
Debtors.)
-----)

FINDINGS OF FACT AND CONCLUSIONS OF LAW
ON MOTION FOR RELIEF FROM AUTOMATIC STAY NOT INTENDED FOR
PUBLICATION

These findings of fact and conclusions of law, which are not intended for publication, are rendered in this contested matter pursuant to Federal Rules of Civil Procedure 52 as incorporated by Federal Rules of Bankruptcy Procedure 7052 and 9014.

Jurisdiction

Jurisdiction is founded upon 28 U.S.C. § 1334. This is a core proceeding. 28 U.S.C. § 157(b)(2)(G).

27

Findings of Fact

Debtors filed their voluntary chapter 7 petition on August 9, 2006. They scheduled a 2004 Mitsubishi Galant and a 2004 Ford Escape ("vehicles") as property of the estate. The first meeting of creditors was held on October 4, 2006. The chapter 7 trustee filed a report finding that there is no property available for distribution from the estate over and above that exempted by the debtor. Debtors were discharged from all dischargeable debts on December 14, 2006.

On December 4, 2006, U.S. Bank ("movant") filed a motion, notice, and declaration requesting that this court vacate the automatic stay to permit movant to repossess the vehicles. Movant is the holder of two Purchase Contracts payable by the debtors. The Kelley Blue Book values of the vehicles are approximately \$12,362.50 and \$16,480.00. Movant holds liens on the vehicle in the approximate amounts of \$18,682.33 and \$23,458.31. There is no evidence of any other liens against the vehicles.

No opposition to the motion was filed within the time prescribed by Local Bankruptcy Rule 9014-1(f)(1). The parties have consented to taking evidence by affidavit and have not demonstrated that there is any disputed material factual issue. See L. Bankr. R. 9014-1(f)(1). The evidentiary record is closed. Id.

Upon review of the record, the court determined that the written record is adequate and that no oral argument is necessary.

Conclusions of Law

The automatic stay of acts against debtor in personam expires when the debtor is granted a discharge. 11 U.S.C. § 362(c)(2)(C). Acts against property of the estate remain stayed until the earliest of the time when the bankruptcy case is closed, dismissed, or the property ceases to be property of the estate. 11 U.S.C. § 362(c). The automatic stay may be terminated earlier if debtor fails to protect the secured party's interest adequately, § 362(d)(1), and, with respect to a stay of an act against property, debtor does not have equity in the property, § 362(d)(2)(A), and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2)(B). The issue of whether the property is necessary to an effective reorganization is not considered in a chapter 7 case because no reorganization is contemplated in a chapter 7 case.

17 Although the debtors do not appear to have any equity in
18 the vehicles, since the debtors were granted a discharge, the
19 automatic stay has expired as to the debtors. Thus, the motion
20 insofar as it is directed at the interest of the debtors is
21 moot and will be denied.

22 However, the motion will be granted as to the interest
23 of the trustee.

24 An appropriate order will issue.

25 Dated: January 18, 2007

UNITED STATES BANKRUPTCY JUDGE

1 CERTIFICATE OF SERVICE
2

3 On the date indicated below, I served a true and
4 correct copy(ies) of the attached document by placing said
5 copy(ies) in a postage paid envelope addressed to the person(s)
6 hereinafter listed and by depositing said envelope in the
7 United States mail or by placing said copy(ies) into an
8 interoffice delivery receptacle located in the Clerk's Office.

9 Kurtis Swart
10 Hollie Swart
11 820 Paiute Lane
12 Susanville, CA 96130

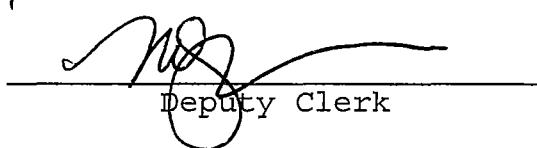
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23 Office of the United States Trustee
24 United States Courthouse
25 501 "I" Street, Suite 7-500
26 Sacramento, CA 95814

27 Dated: 1/19/07

28 
Deputy Clerk